

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 4616 of 1988

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

JILLA KAMDAR SANGH

Versus

STATE OF GUJARAT

Appearance:

MRS DT SHAH for Petitioners

MR DA BAMBHANIA for Respondent

CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 25/07/97

ORAL JUDGMENT

#. This Specail Civil Application is filed by Jilla Kamdar Sangh and fourteen other persons and challenge has been made to the order of the respondent dated 18th July 1988 under which services of petitioners No.2 to 13 were terminated.

#. This Specail Civil Application has come up for

admission before this Court on 18th August 1988. Thereafter the matter has come up for admission before this court on 30th November 1988 on which date this Court has ordered:

Rule. By way of interim order we direct that the cases of the petitioners should be considered in the light of the latest Government Resolution of the Public Works Department (R and B), Gandhinagar, dated 17th October 1988, after taking into consideration the length of service etc., from time to time and to give all benefits available to them according to their eligibility as per the said Government Resolution. Mr.Zaveri for Mr.A.R. Dave waives service of Rule on behalf of respondents Nos.1 to 3. Mr. Karia waives service of Rule on behalf of respondent No.4.

The Court has directed the respondents to consider the cases of petitioners in the light of the Government Resolution dated 17th October 1988. Though this order has been passed on 30th November 1988, none of the parties are in a position to say what ultimately has been done by respondents.

#. The members of petitioner No.1 and other petitioners were appointed on daily wages in various divisions of irrigation circle of Rajkot, in the year 1982, and they filed this Special Civil Application for grant of relief of giving them pay scale of Rs.950-1500 with other consequential benefits. In the main petition though challenge has been made to the order of termination of services of petitioners No.2 to 13, I do not find any such prayer for quashing of that order. From the Special Civil Application it comes out that petitioners No.2 to 13, because of their qualifications etc., were given appointments in the regular pay scale against temporary project post and on completion of the said project they have been sent back to their respective departments on daily wages and as such it was taken to be a case of termination of services but in fact their services as daily wagers have not been terminated.

#. In view of the order of this Court aforesaid, in fact, the Special Civil Application stood disposed of at that very point of time and it is really shocking that for all these years, the respondents have not considered the matter. The Resolution dated 17th October 1988 is there which I had occasion to consider in other Special Civil Application under which it has been provided that

all daily wagers who have been appointed on or before 1st October 1988 should be given pay in the regular pay scale on the post concerned subject to fulfillment of condition of five years' service. The daily wagers who have completed ten years' or more service have been given many other benefits including pension and other retirementary benefits. It has further been provided in the said Resolution that those daily wagers who have not completed five years' service as on 1st October 1988 may be given pay in the regular pay scale from the date on which they complete five years' service. So under the Resolution aforesaid, manifold benefits have been extended to daily wager employees and the petitioners cases are to be considered in the light of the said Resolution.

#. Be that as it may, interest of justice will be served in case this Special Civil Application is disposed of with direction to respondents to carry out the order of this Court dated 30.11.88 within a period of three months from the date of receipt of certified copy of this order. In case the petitioners are found eligible and entitled for the benefits as conferred under the Resolution dated 17th October 1988, they shall be given all the consequential benefits following therefrom within three months next. Compliance of this order should be reported to this Court.

#. The Special Civil Application and Rule stand disposed of in aforesaid terms with no order as to costs.

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